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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,601	05/22/1998	CHRISTOPH E. SCHEURICH	ITL.0045US (P5755)	4253
21906	7590	06/04/2007	EXAMINER	
TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			AN, SHAWN S	
		ART UNIT	PAPER NUMBER	
		2621		
		MAIL DATE	DELIVERY MODE	
		06/04/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/083,601	SCHEURICH ET AL.
	Examiner	Art Unit
	Shawn S. An	2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 March 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 39-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 39-56 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Response to Remarks

1. Applicant's remarks as filed on 3/06/07 have been fully considered but they are not persuasive.

The Applicant presents arguments of which Thro et al and Applicant's admitted prior art fail to teach or even suggest:

A) evaluating a bandwidth available for the communication between the camera and the computer; and

B) based on the evaluation of the available bandwidth, selectively not comply with the second request.

However, after careful scrutiny of Thro et al and Applicant's admitted prior, the Examiner must respectively disagree, and maintain the grounds of rejection for the reasons that follow.

In response to argument A), Thro et al teaches evaluating a bandwidth available for the communication between the camera and the computer (col. 4, lines 3-23). In other words, evaluating a bandwidth (defined as a range within a band of frequencies (Hz), and/or the data transfer rate of an electronic communication system) being available are met by each communication resource, such as RF communication resources having limited Bandwidth, wherein each communication resource can carry only a certain, fixed amount of information every second, and this information can be in the form of many frames with fewer bits in each frame or fewer frames with many bits in each frame, thereby in order to transmit more image updates per second (within a limited bandwidth), the frame rate is give priority and increased (evaluating), and in order to transmit high quality images per second (within a limited bandwidth), the frame rate must be decreased (evaluating) (col. 4, lines 6-22).

In response to argument B), Thro et al teaches based on the evaluation of the available bandwidth (discussed directly above), selectively not comply with the second request (secondary priority, resolution) (col. 4, lines 3-41).

In other words, selectively not complying with the second request is met by a subsequent request in which one of the two priorities (transmission frame rate priority and transmission resolution per frame priority) is selected based on the evaluation of the available bandwidth as discussed above. Therefore, one of the priorities which has not been selected (from a subsequent request) is considered selectively not complying with the second request, since one of the priorities has not been selected (col. 4, lines 24-41).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 39-41, 43, 45-47, 49, 51-53, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al (6,037,991) in view of Applicant's admitted prior art as previously discussed in the last Office action as filed on 10/24/06.

4. Claims 42, 48, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al and Applicant's admitted prior art as applied to claims 39, 45, and 51 above, respectively, and further in view of Garofalakis et al (6,330,609 B1)

5. Claims 44, 50, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al and Applicant's admitted prior art as applied to claims 39, 45, and 51 above, respectively, and further in view of Masamine et al (JP; 10-070641) as previously discussed in the last Office action as filed on 10/24/06.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 571-272-7324.

8. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SHAWN AN
PRIMARY EXAMINER



5/26/07